First, an action is morally permissible unless it is prohibited by morality.

Charles **Pidgen** explains Dworkin’s definition of “moral permissibility”[[1]](#footnote-1)

In his famous paper 'Objectivity and Truth: You'd Better Believe it' (1996) Ronald **Dworkin argues that** wholesale or Archimedean moral skepticism of the kind advanced by Mackie (and in my view by Nietzsche) is fundamentally incoherent. **You can't be a skeptic about all moral claims, since if you think that abortion is not wrong** - or if you think that it is not full-bloodedly true that abortion is wrong - **you are committed to the** first-order **view that abortion is morally permissible.** But that only holds if you subscribe to something like (RDI) - that **[because] the claim that action**s of kind **X** are **[is] not wrong, entails that** actions of kind **X [is]** are right (in the sense of **morally permissible**). [Pidgen disagrees with Dworkin and later provides a rebuttal to Dworkin’s argument.]

Prefer this interpretation because:

**a.** Side-Bias. Neg won a significant majority of both prelims and elims at VBT, Emory, Berkeley, and Harvard, which proves that this topic has a large neg bias. Aff has the right to set ground in order to compensate for the pervasive bias.

**b.** Bidirectionality. Aff needs skep ground to prevent neg bidirectionality. Otherwise the neg can argue that morality is either more or less stringent than the aff suggests, which makes it impossible to affirm because any answers I make against one side of the spectrum can be leveraged against me as offense on the other side.

(3o sec)

Second, I-meets and counter-interps trigger an RVI for the aff. 2 reasons.

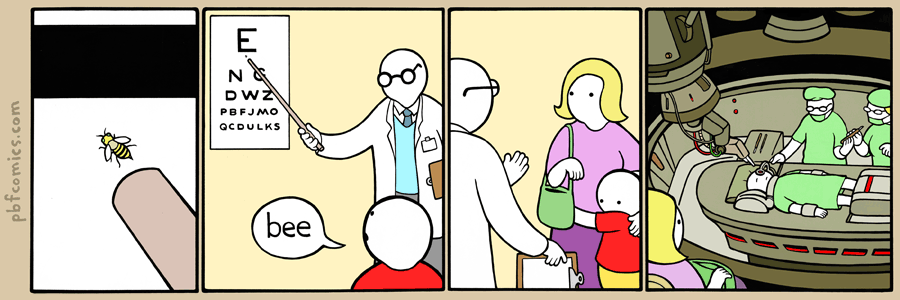
(**a**) the massive time-skew of the LD 1AR means I can’t fully cover theory and still have a fair shot at substance; and

(**b**) no risk theory would exacerbate neg bias by giving him a free source of no risk offense that comes prior to all AC offense.

(10 sec)

Third, I am willing to clarify in cross-ex.

(2 sec)



Fourth, the resolution is in the present tense, so the topic is an on balance evaluation of the status quo. In the status quo, a majority of cases are confrontational.

Professor Holly **Maguigan** reports[[2]](#footnote-2)

**Two hundred twenty-three cases were identified as** meeting the definition established for **battered women's homicide** cases.60 These cases generated a total of 270 opinions.61 The incidents, rather than the opinions, were used as the base for this portion of the Article's analysis.62 Of the 223 incidents comprising the base, **75% involve confrontations.**63 Twenty percent are non-confrontational cases (4% "con- tract killings,"64 8% sleeping-man cases, and 8% defendant as initial aggressor during a lull in the violence).65 In the remaining 5%, the appellate opinions did not include a discussion of the incident facts introduced at trial.66 As the breakdown indicates, the appellate opinions do not support the conclusion that most battered women kill during non-confrontational situations.

This means the aff meets proportionality and imminence requirements.

**Maguigan-2** explains what her study considers “confrontational.”

**"Confrontation" is used here to describe a** fact **pattern that would entitle a defendant to** a **self-defense** instruction **under the law** of most jurisdictions.34 **A case is defined as** a **confrontational** battered woman's homicide35 **if** the defendant killed her spouse or lover and at trial evidence (disputed or not) was offered on the record and discussed on appeal (whether or not ruled admissible by the trial judge) that **(1) he had abused her in the past,**36 **(2)** on the occasion of the homicide **he behaved in a way that**, according to her testimony, **she interpreted**37 **as** posing **an imminent**38 **threat** of death or serious bodily injury39 to her, **(3) she did not provoke**40 **his behavior** by unlawful actions **and was not the initial aggressor**,41 **(4) she violated no duty to retreat**,42 **and (5) the force she used was proportional** to the threat she perceived.43 A non-confrontational case, on the other hand, is defined as a killing that occurred while either (1) the man was asleep, (2) the man was awake, but the woman was the initial aggressor on the particular occasion, or (3) the woman hired or persuaded someone else to kill the man.

(35 sec)



The value is morality.

Section 1 is Practical Reason

Practical reason is the only binding source of morality. We can always question why our desires matter, but asking whether we have a reason to act for reasons would be self-defeating because the question itself concedes the authority of reasons.

(10 sec)

Desire alone can’t guide action because practical reason determines what counts as motivational.

**Korsgaard 02** writes[[3]](#footnote-3)

C.M.K.: Given what I just said about the order of explanation between rationality on the one hand and reasons or rational principles on the other, I probably would not now respond to Williams’s argument in exactly the same way that I did when I wrote “Skepticism about Practical Reason.” I still hold the position I described there, but the way I wrote that paper makes it possible to confuse my position with the one I just rejected—that rational principles are somehow just out there and you are rational if you respond to them correctly. I think that there is something misleading about the way Williams sets up the question. He sets up the subjective motivational set as something with some items in it, over here, so to speak, and the reasons that emerge from deliberation over there, and then he says: there has to be some path between them. The implicit assumption is that the principles of practical reason are transmitters of motivational or normative force from one reason to another. I don’t think that is what principles of practical reason are. I think they are principles that determine what counts as a reason. To put it in the terms I used a moment ago: as I see Kant’s moral psychology, **every reason involves two elements—an incentive and a principle under which that incentive is chosen. If we did not have some principle of treating our desires as reasons, then desires would not be part of the** subjective **motivational set in a rational being.** In Kant’s philosophy the relevant principle is the principle of self-love, which is, as he sees it, a kind of basic animal tendency to take your natural inclinations to be reasons to act. So there must be some principle that makes desires and inclinations part of the subjective motivational set, part of the will, insofar as you can translate Kant’s ideas into these terms at all. If we think of the principles of practical reason in this way then the focus of our attention is going to be on those principles and which ones they are, and, to get back to the point I was just making, we are going to find that out by thinking about what rationality is, what it means to be a rational being. That is the interesting question because it determines what rational principles there are, and so what is in the subjective motivational set and what is not. **If rational principles determine what is in the** subjective **motivational set, then of course there will be a connection between** the items in the set **[motivation] and** the outputs of **rational deliberation, and so internalism will be true, but** that is **a trivial result.**

(20 sec)

Practical reason is internally motivational. Rationality is the natural aspiration of human beings. **Korsgaard-2** writes[[4]](#footnote-4)

C.M.K.: **I would not** quite **say that the account of moral motivation only works if we assume that people are rational. Rather,** I would say that **there is a descriptive sense in which people have no choice but to be rational** and to act on reasons of some kind. **Rationality** in this descriptive sense **is forced upon us by the fact that we are self-conscious beings and can act on our incentives only if we take them to be reasons.** So there is no question of acting rationally versus not acting rationally. There is only a question whether our reasons are good ones or bad ones, whether we are rational in a normative sense. (And of course there is the precedent question whether we can derive some standard for reasons being good or bad ones, such as the Formula of Humanity in the argument I described before.) So I don’t think that **I am [not] making a strong presupposition of rationality in the normative sense. It is more a thesis in moral psychology.**

(20 sec)

Unity of action can only be explained by reason, not desire.

**Rodl 2k** writes[[5]](#footnote-5)

**Calculation from desire does not yield a premise for instrumental reasoning because its conclusion represents a changeable state**, while an instrumental reasoning proceeds from a thought that represents something with the temporality of a movement. But the instrumental syllogism is a necessary form of practical reasoning, for practical reasoning arrives at a thought on which a movement may rest. And **if a movement rests on thought, then the unity of its phases**, which constitutes it as a movement, **must rest on thought.** So it does **if I reason [that]** from the same thought now, **“I want to do B. So let me do [X]”**, and then, “I want to do B. So let me do [Y]”, and so on. As “I want to do B” expresses the same thought all the while that I am doing B and until I have done it, **the unity of the phases of my doing B consists in the fact that they all hang on that thought. By contrast, if “I want to do B” represented a changeable state** I would not reason from the same thought, now to doing A1, and then to doing A2. In consequence, my doing A1 and my doing A2 would bear no unity. **These would not be phases of a movement, and I would not**, in doing A1 and A2, **be doing B.**

(25 sec)

Section 2 is Human Worth

It follows from practical reason, that rational beings have inherent value.

Christine **Korsgaard 96** writes[[6]](#footnote-6)

This is just a fancy new model of an argument that first appeared in a much simpler form, Kant’s argument for his Formula of Humanity. The form of relativism with which Kant began was the most elementary one we encounter - the relativity of value to human desires and interests. He started from the fact that when we make a choice we must regard its object as good. His point is the one I have been making - that being human we must endorse our impulses before we can act on them. Kant asked **what** it is that **makes** these **objects good**, and, rejecting one form of realism, he decided that the goodness wa**[i]s not in the objects themselves. Were it not for our desires** and inclinations, **we would not find** their **objects good.** Kant saw that **we take things to be important because they are important to us** - and he concluded that **we must therefore take ourselves to be important.** In this way, the value of humanity itself is implicit in every human choice. Ifnormative skepticism is to be avoided - **if there is any such thing as a reason for action** - **then humanity as the source of all reasons** andvalues **must be valued for its own sake.**

(15 sec)

This precludes util. Aggregating agent-relative reasons is incoherent. Christine **Korsgaard 93** writes[[7]](#footnote-7)

The difference between these two interpretations of neutral value is naturally associated with two other differences. First, the two views will normally involve a different priority-ordering between subjective or relative and objective or neutral values. According to Objective Realism, subjective values are *derived from* objective ones: an individual comes to value something by perceiving that it has (objective) value. Our relation to values, on this account, is epistemological, a relation of discovery or perception. According to Intersubjectivism, objective values are derived or - better - constructed from subjective ones. Our individual, subjective interests become intersubjective values when, because of the attitude we take towards one another, we come to share each other’s ends. On this view, our relation to values is one of creation or construction. The second and related difference concerns the possibility of adding and subtracting value across the boundaries between persons. On an Intersubjectivist interpretation, **neutral reasons are shared, but they are always initially** subjective or **agent-relative reasons. So** on this view, **everything that is good or bad is so because it is good or bad *for* someone. This makes it natural** for an Intersubjectivist **to deny that values can be added** across the boundaries **between people. My happiness is good for me and yours is good for you, but the sum of these two values is not good *for* anyone**, and so the Intersubjectivist will deny that the sum, as such, is a value. But an Objective Realist, who thinks that the value is in the object rather than in its relation to the subject, may think that we can add. Two people’s happinesses, both good in themselves, will be better than one. **Since consequentialism depends upon the possibility that values may be added,** an Objective realist about value may be a consequentialist, while **an Intersubjectivist will not [be a consequentialist].**

(20 sec)

Aggregation is inconsistent with respect for human worth.

Professor Robert **Nozick 74** writes[[8]](#footnote-8)

Individuals are ends and not merely means; they may not be sacrificed or used for the achieving of other ends without their consent. Side constraints express the inviolability of other persons. But why may not one violate persons for the greatest social good? Individually, we each sometimes choose to undergo some pain or sacrifice for a greater benefit or to avoid a greater harm: we go to the dentist to avoid worse suffering later; we do some unpleasant work for its results; some persons diet to improve their health or looks; some save money to support themselves when they are older. In each case, some cost is borne for the sake of the general overall good. Why not, similarly, hold that some persons have to bear some costs that benefit other persons more, for the sake of the overall social good? But **there is no *social entity*** with a good **that undergoes** some **sacrifice for its own good. They are only individual people**, different individual people, **with** their all **individual lives. Using one** of these people **for the benefit of others uses him and benefits the others. Nothing more.** What happens is that something is done to him for the sake of others. **Talk of** an overall **social good covers this up.** To use a person in this way does not sufficiently respect and take account of the fact that he is **a** separate **person**, that his is the only life he has. He **does not get some overbalancing good from his sacrifice, and no one is entitled to force this upon him** – least of all a state or government that claims his allegiance (as other individuals do not) and that therefore scrupulously must be neutral between its citizens. The moral side constraints upon what we may do, I claim, reflect the fact of our separate existences. They reflect the fact that no moral balancing act can take place among us; there is no moral outweighing of one of our lives by others so as to lead to a greater overall social good. There is no justified sacrifice of some of us for others.

Util fails because not all values are reducible to good consequences.

**Nagel 02** writes[[9]](#footnote-9)

The central claim is that the motivational source of morality is something quite different from the impartial universal benevolence most naturally expressed by a utilitarian system—a system whose ultimate standard is the maximization of overall, aggregate well-being. In fact he sets himself against the natural but simplistic idea that well-being is the domin ant value or that any other measure of the good, conceived as an end to be promoted by everyone, is the basic form of value. **Value takes many forms other than that of something to be** promoted or **maximized. One would not**, he observes, **show an appreciation for the value of friendship by betraying one friend in order to make several new ones. Morality**, too, **is not identiﬁed with promoting the good**—human happiness, for example.

(12 sec)



If util is true, you affirm. **First**, the universe is flat.

**NASA 10**[[10]](#footnote-10)

The WMAP spacecraft can measure the basic parameters of the Big Bang theory including the geometry of the universe. If the universe were open, the brightest microwave background fluctuations (or "spots") would be about half a degree across. If the universe were flat, the spots [brightest microwave background fluctuations] would be about 1 degree across. While if the universe were closed, the brightest spots would be about 1.5 degrees across.

**Recent measurement**s (c. 2001) by a number of ground-based and balloon-based experiments, including MAT/TOCO, Boomerang, Maxima, and DASI, have shown that the brightest spots are about 1 degree across. Thus the universe was known to be flat to within about 15% accuracy prior to the WMAP results. WMAP has [spacecraft have] confirmed this result with very high accuracy and precision. We now know that the universe is flat with only a 2% margin of error.

In a flat universe, all actions are morally neutral because there will always be an infinite amount of total happiness.

Bostrom 02 writes[[11]](#footnote-11)

In the standard Big Bang model, assuming the simplest topology (i.e., that space is singly connected), there are three basic possibilities: the universe can be open, flat, or closed. Current data suggests a flat or open universe, although the final verdict is pending. If the universe is either open or flat, then it is spatially infinite at every point in time and the model entails that it contains an infinite number of galaxies, stars, and planets. There exists a common misconception which confuses the universe with the (finite) ‘observable universe’. But the observable part—the part that could causally affect us—would be just an infinitesimal fraction of the whole. Statements about the “mass of the universe” or the “number of protons in the universe” generally refer to the content of this observable part; see e.g. [1]. Many cosmologists [also] believe that our universe is just one in an infinite ensemble of universes (a multiverse), and this adds to the probability that the world is canonically infinite; for a popular review, see [2].” Recent cosmological evidence suggests that the world is probably infinite. Moreover, [I]f the totality of physical existence [it] is indeed infinite, in the kind of way that modern cosmology suggests it is, then it contains an infinite number of galaxies, stars, and planets. If there [is] an infinite number of planets then there is, with probability one, an infinite number of people. Infinitely many of these people are happy, infinitely many are unhappy. Likewise for other local properties that are plausible candidates for having value, pertaining to person‐states, lives, or entire societies, ecosystems, or civilizations—there are infinitely many democratic states, and infinitely many that are ruled by despots, etc.  Suppose the world contains an infinite number of people and a corresponding infinity of joys and sorrows, preference satisfactions and frustrations, instances of virtue and depravation, and other such local phenomena at least some of which have positive or negative value. More precisely, suppose that there is some finite value ε such that there exists an infinite number of local phenomena (this could be a subset of e.g. persons, experiences, characters, virtuous acts, lives, relationships, civilizations, or ecosystems) each of which has a value ≥ ε and also an infinite number of local phenomena each of which has a value ≤ (‒ ε). Call such a world canonically infinite. Ethical theories that hold that value is aggregative imply that a canonically [an] infinite world contains an infinite quantity of [both] positive value and an infinite quantity of negative value. This gives rise to a peculiar predicament. We can do only a finite amount of good or bad. Yet in cardinal arithmetic, adding or subtracting a finite quantity does not change an infinite quantity. Every possible act of ours therefore has the same net effect on the total amount of good and bad in a canonically infinite world: **[namely] none** whatsoever. Aggregative consequentialist theories threatened by infinitarian paralysis: they seem to imply that if the world is canonically infinite then it is always ethically indifferent [to] what we do.

(25 sec)

There is a distinction between actions and omissions – 3 reasons

1. An agent can’t be held culpable for omissions because she did not cause the harms in question. Even if a person dies because the agent failed to save them, she does not will that death, so it doesn’t represent a failure of the will.

2. Overdemandingness. Positive obligations are logically infinite because there’s no brightline for when one has fulfilled enough of the obligation. This means the agent will be compelled to act in every instance, which removes any ability for autonomous choice.

(20 sec)

3. Human psychology justifies an act/omission distinction. Human willpower is finite and time-consuming, so we can’t expect humans to consider every possible action.

Richard **Chappell 08** writes[[12]](#footnote-12)

**Humans have limited** executive **cognitive control or 'willpower'** (cf. the psychological literature on ego-depletion). Decision-making and **conscious action is draining.** It's hard work. **The immediate concerns of everyday life can be burdensome enough without adding all the world's ills to one's plate.** Again, so long as one is leading a basically decent life, it just doesn't seem reasonable to condemn them or demand that they attend to more pressing concerns elsewhere. Most people have more than enough to attend to already! So perhaps we should say that one would be 'doing'/bringing about X (or 'allowing' not-X) iff the X option requires more effortful decision-making (i.e. is more ego-depleting) than the not-X option. **This could make sense of why bringing about harms is more blameworthy than merely allowing them.**

(20 sec)

The Chappell evidence contextualizes what counts as an omission. An omission is the action we would instinctively take if we exerted no willpower in the decision. This means that affirming is an omission because humans naturally act to defend themselves prior to rational deliberation.

**Dugdale 06** writes[[13]](#footnote-13)

**The fight or flight response is automatic** and by-passes the rational or conscious mind. **We do NOT consciously choose to feel threatened** or suffer anxiety. **It is** an **instinctive** response, happening unconsciously, of its own accord.

What happens at a physiological level is that **once the response is stimulated,** a part of the brain called **the hypothalamus** sets off a series of actions preparing **[prepares] the body for either battle** (facing the danger) **or** running (**escap[e]**ing the threat).

(20 sec)

Section 3 is Self Defense

Self-defense respects human worth for 3 reasons.

First is self-respect. Self-defense is key to preventing the violation of one’s own worth. Barbara **Herman 89** writes[[14]](#footnote-14)

**[In self-defense,] I am not acting to save my life (as such), but to resist the use of my** agency (**self**) **by another**. Acting to save my life (as something valuable to me) would be to act for just another purpose. The moral standing of my agency - what makes it the source of reasons for others to refrain from acting against me - is not the good (to me) of being alive. Acting to sustain the integrity of my agency is to act for a morally necessary end. Thus, since **my maxim of resistance is not a maxim of aggression** as a means, the original aggressor cannot renew his attack on morally superior grounds. I am not acting to preserve myself through violent means. **In stopping aggression with force I am asserting my status as a rational agent. It is an act of self-respect.**

(15 sec)

Second is the golden rule. Self-defense respects the abuser because he is treated in the same way that he treats others. Jeffrey **Reiman** writes[[15]](#footnote-15)

Since reason (like justice) is no respecter of the sheer difference between individuals, **when a rational being decides to act in a certain way toward his fellows, he implicitly authorizes similar action by his fellows toward him.** A version of the golden rule, then, is a requirement of reason: acting rationally, one always acts as he would have others act toward him. **Consequently, to act toward a person as he has acted toward others is to treat him** as a rational being, that is, **as if his act were the product of a rational decision.** From this, it may be concluded that we have a duty to do to offenders what they have done, since **this** amounts to **accord[s] them the respect due rational beings.**

(15 sec)

Third is the forced choice. Abuse puts the victim in a kill-or-be-killed situation, leaving no option but self-defense. Professor of Philosophy Cheney **Ryan 83** writes[[16]](#footnote-16)

This case helps us put the self-defense situation in perspective, since Victim’s position seems to be analogous to the mayor’s. **When Aggressor threatens Victim, his actions have created a situation in which someone’s life will be lost** (he hopes Victim’s) **Victim is not responsible for this situation**, it is merely presented to him. **But given it, Victim can determine whose life is lost**, and in choosing to defend himself Victim determines that it will be Aggressor’s life. In this sense the **true responsibility for the taking of life rests not with Victim, for Aggressor’s actions have made this inevitable.** In pointing this out, **the appeal to self-defense shows that the real blame for Aggressor’s losing his life rests with Aggressor himself.** We must still explain why Victim is justified in choosing to save his own life over Aggressor’s, but first let me consider some respects in which this approach to self-defense is illuminating. It reveals, I think, the true asymmetry of the self-defense situation. Victim decides which life is lost, and while he may decide incorrectly, his crime in doing so is infinitely less than the malicious Aggressor’s. Interestingly enough, it is a mistake on this view to speak of a right to self-defense, for if the appeal to self-defense serves to absolve one of the responsibility for taking human life, as I have suggested, it cannot at the same time give one the right to take another’s life (except, perhaps, in the weaker Hohfeldian sense of liberty). This approach also reconfirms earlier intuitions about the relevance, or rather irrelevance, of Aggressor’s right to life. Think of it this way: when the mayor is asked to account for the killing of the resistance fighter he chose to kill, must he show that that person forfeited his right to life? Perhaps his choice would be easier if this could be shown, but the propriety of his action does not rest on it. In this same sense, the propriety of Victim’s actions need not presume any forfeit on Aggressor’s part.

(20 sec)

Studies prove, victims believe they are acting in self defense. **Saunders**[[17]](#footnote-17)

A controversy exists regarding the nature of violence committed by women against their intimate partners. When battered women are violent it is not known if the violence should be labeled “mutual combat,” “husband abuse,” or “self-defense.” Following a review of studies comparing the extent of husbands’ and wives’ victimization and some conceptual issues regarding self-defense, **data are presented from 52** battered **women** on their motives for using violence against their partners. **The most frequent reason for violence** reported by the women **was** for **self-defense.** Only one woman reported initiating an attack with severe violence in more than half of her violent acts. **Only eight percent** of the women reported that nonsevere violence was **used [violence] to initiate an attack more than half of the time.** The concepts of "self-defense" and “fighting back” were significantly and positively correlated, that is, many women saw them as being the same. The women’s self-reports are discussed in the context of the need to collect data on relevant explanatory variables in family violence research and the application of a feminist perspective to reduce bias in such research.

(10 sec)

The resolution mandates that the aff gets self-defense ground. If the agent only intended murder and not self-defense, the deadly force would not be considered a response to the domestic violence.

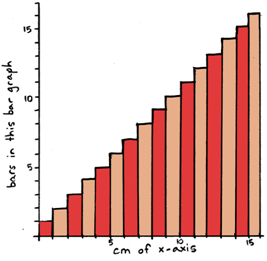
(8 seconds)

Imminence is irrelevant in domestic violence cases.

Attorney Joan **Krause 94** writes[[18]](#footnote-18)

Second, self-defense may be invoked only when the actor reasonably believes that the threatened harm is imminent. This requirement poses the greatest problem if the defendant acts when the abuser is not an immediate threat, such as when he is sleeping (i.e., so-called "nonconfrontational" situations). **To require a** battered **woman to wait until the attack begins,** however, **may ignore her experience in the relationship**. For example, **the woman may be aware of pre-assault symbols, such as heavy drinking, that would not signify imminent danger to outsiders.** In fact, the battered woman faces almost the exact opposite of the traditional sudden attack: "the question is not whether he will beat her up again but when, and not whether he will injure her but how badly or whether he will kill her this time." A court that allows the jury to consider past events as part of the circumstances of the killing, rather than focusing solely on the moment of the killing, will be more open to battered women's self-defense claims.

(10 sec)



Section 4 is the Legal System – It doesn’t work for a few reasons

**First**, threats by the abuser prevent women from going to court. **Klein 2009** [[19]](#footnote-19)

**A study** of five jurisdictions in three states **found that** victims across all sites reported that **fear of** defendant **retaliation was the**ir **most common barrier to participation with prosecutors.** [103] Even in a Chicago study where the majority of Chicago victims wanted their abusers prosecuted, fear was the biggest factor for those who opposed prosecution. **A quarter** of victims opposing prosecution **reported being specifically threatened** by their abusers **against prosecution. Others expressed fear that their abusers would become more violent.**

(15 sec)

**Second,** police don’t respond to domestic violence calls. Mary **Wimberly 07** writes[[20]](#footnote-20)

Empirical, historical, and sociological evidence should be used by experts to show that the necessity of a battered woman’s actions in self-defense is in large part created by societal pressures that demand that women stay in the home, and submit to the domination of men. For instance, an expert could demonstrate how the assumptions of the law and subsequently of law enforcement officials reflect the social norms that compel women to silently and privately cope with domestic abuse. As Caroline Forell and Donna Matthews wrote, “[T]he law is often ineffectual. For example, **in a U.S. Department of Justice study**, Marianne Zawitz estimated that nearly **90 percent of women killed by intimates had previously called the police**, and that **half of these had called five or more times**.” 78 Professor Raeder similarly found, “The statistics produced from myriad sources are disconcerting, even with some discounting for methodological objections. Each year nearly 1500 women are killed by their batterers. Approximately ninety percent of women killed by husbands or boyfriends were stalked and had previously called the police.

(8 sec)

**Third,** victims who flee lose custody, relegating their children to a life of domestic abuse as well. Laura **Curry 2009** of the University of Baltimore[[21]](#footnote-21)

A women fleeing with a child must also consider the possible implications of her action in regards to child custody proceedings and existing custody agreements. **If a woman decides to flee** or go underground, then **she will not be present** or able to participate **in** custody **proceedings and will likely lose custody** as a result of her leaving the state where abuse occurred.24 While under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), **the** fleeing **victim can file for** temporary **custody, however, she** may still be forced to return to the home state if she wants to go forward with litigation.25 Furthermore, the mother **may be required to disclose her whereabouts, facing a similar confidentiality problem** as she would if facing parental kidnapping charges.26 Clearly, a woman faces many additional legal challenges when a child is involved as she makes the difficult, but often lifesaving decision, to rebuild her life in a new state.

(13 sec)

**Fourth,** even arrest doesn’t solve domestic violence. Criminals continue to abuse women once released. **Klein 2009**[[22]](#footnote-22)

Reabuse has found to be substantially higher in longer term studies. **A** Massachusetts **study tracked 350 male[s]** abusers **arrested for abusing their** female intimate **partners over a decade,** 1995 to 2005. The study found that **60 percent were rearrested for a new domestic assault** or had a protective order taken out against them, even though some went three to four years between arrests. [138, 224] An equivalently high rearrest rate for domestic violence was also documented **in Colorado** between 1994 and 2005. During that time, **of 84[thousand]**,431 **defendants** arrested for domestic violence, according to the state bureau of investigation, more than 50,000 (nearly 60 percent) were arrested for domestic violence charges more than once. In other words, **the** domestic violence **rearrest rate was almost 60 percent** for arrested abusers **over** an average of **five years.**

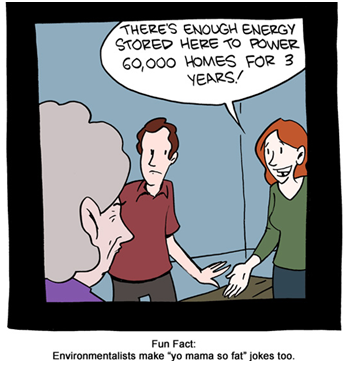
(15 sec)

Deadly force solves the flaws in the legal system. It gives the government incentive to reform its policies.

Professor Benjamin **Zipursky 96** writes[[23]](#footnote-23)

**If** use of **deadly force** in no-access situations **were permitted**, then it would arguably be the case that: (1) she would increase her ability to avert death or injury in the sort of "no-access" case that does frequently arise in these scenarios; (2) to the extent that her sense of lack of liberty and helplessness wer based on her actual condition, she might experience a greater sense of liberty because, if access has truly been cut off, she will still have the right to defend herself; and (3) the assailant could no longer count on being able to rape and terrorize her by cutting off access and engaging in brutal conduct without facing the risk of defensive homicide (a risk that would presumably increase substantially if such defensive homicide were legal). Perhaps this fact would diminish the terrorizing conduct and the cutting off of access. With regard to both forms of domination I have considered, it might also be added that **society might change so that access for women to alternative paths of relief were more available than it now is. If the cost to society** of no-access scenarios **were women killing men** without criminal liability, **the state might be more motivated to provide alternative avenues of relief.** This provision of access would arguably enhance women's security.

(15 sec)



1. Pidgen, Carles R. “Nihilism, Nietzsche and the Doppelganger Problem.” Ethical Theory and Moral Practice, Vol. 10, No. 5, Moral Skepticism: 30 Years of Inventing Right and Wrong (November 2007), pp. 441-456 Published by: Springer. Accessed: 05/01/2012 02:35 <http://www.jstor.org/stable/40602541> [↑](#footnote-ref-1)
2. Maguigan, Holly (Law Prof @ NYU). “Battered Women and Self-Defense: Myths and Misconceptions in Current Reform Proposals.” University of Pennsylvania Law Review, Vol. 140, No. 2 (Dec., 1991), pp. 379-486. http://www.jstor.org/stable/3312349 [↑](#footnote-ref-2)
3. Christine M. Korsgaard (Professor of Philosophy at Harvard). Internalism and the Sources of Normativity. Constructions of Practical Reason: Interviews on Moral and Political Philosophy, edited by Herlinde Pauer-Studer (Stanford: Stanford

   University Press, 2002) <http://www.people.fas.harvard.edu/~korsgaar/CPR.CMK.Interview.pdf> [↑](#footnote-ref-3)
4. Christine M. Korsgaard (Professor of Philosophy at Harvard). Internalism and the Sources of Normativity. Constructions of Practical Reason: Interviews on Moral and Political Philosophy, edited by Herlinde Pauer-Studer (Stanford: Stanford

   University Press, 2002) <http://www.people.fas.harvard.edu/~korsgaar/CPR.CMK.Interview.pdf> [↑](#footnote-ref-4)
5. Rödl, Sebastian. Self-Consciousness, Harvard University Press, 2000 [↑](#footnote-ref-5)
6. Korsgaard, Christine (Prof of Philo @ Harvard). “The Sources of Normativity.” 1996. [↑](#footnote-ref-6)
7. Korsgaard, Christine. Professor of Philosophy at Harvard University. “The reasons we can share: An attack on the distinction between agent-relative and agent-neutral values.” Cambridge University Press, 1993. Previously published in Social Philosophy and Policy 10, no. 1: 24-51. <http://dash.harvard.edu/bitstream/handle/1/3196321/Korsgaard_ReasonsShare.pdf?sequence=2> [↑](#footnote-ref-7)
8. Robert Nozick. “Moral Constraints and Moral Goals.” Anarchy, State and Utopia, New

   York: Basic Books, 1974. p 31‐33 [↑](#footnote-ref-8)
9. Nagel, Thomas [University Professor of Philosophy and Law at New York University]. “Scanlon’s Moral Theory” in *Concealment and Exposure & Other Essays*. Oxford University Press, 2002. Print. pp. 148-9. [↑](#footnote-ref-9)
10. National Aeronautics and Space Administration. “Is the Universe Infinite?” 3 May 2010. <http://map.gsfc.nasa.gov/universe/uni_shape.html> [↑](#footnote-ref-10)
11. Bostrom, Nick (2002) Are Cosmological Theories Compatible with All Possible Evidence: A Missing Methodological Link. [↑](#footnote-ref-11)
12. Richard Chappell (grad student @ Princeton). 22 May 2008 “Doing/Allowing and Effortful Willing.” <http://www.philosophyetc.net/2008/05/doingallowing-and-effortful-willing.html> [↑](#footnote-ref-12)
13. Dugdale, Susan (Thomson-Reuters Corporation). “The Fight or Flight Response – What is Happening to Me?” 2006. [↑](#footnote-ref-13)
14. Barbara Herman “MURDER AND MAYHEM: VIOLENCE AND KANTIAN CASUISTRY” The Monist, Vol. 72, No. 3, Kant's Practical Philosophy (JULY 1989), pp. 411-431. [↑](#footnote-ref-14)
15. Jeffery Reiman (Professor @ University of Phoenix). “Justice, Civilization, and the Death Penalty,” Philosophy and Public Affairs Vol. 13, No. 2, pp. 122-125, (1995), JSTOR [↑](#footnote-ref-15)
16. Ryan, Cheney C. [Prof. of Philosophy, University of Oregon], “Self-Defense, Pacifism, and the possibility of Killing,” *Ethics*, Vol. 93, (Apr., 1983), pp. 508-524, 515-516 [↑](#footnote-ref-16)
17. Daniel G. Saunders (Department of Psychiatry, UWisconsin Medical School & Program to Prevent Woman Abuse, Madison, WI). “When Battered Women Use Violence: Husband-Abuse of Self-Defense?” *Victims and Violence. Vol. 1. No. 1.* 1986. Springer. [↑](#footnote-ref-17)
18. Krause, Joan. Attorney-Hogan and Hartson.1994. “Of Merciful Justice and Justified Mercy: Commuting the Sentences of Battered Women Who Kill:” [↑](#footnote-ref-18)
19. Klein, Andrew. US Department of Justice. 2009. "Practical Implications of Current Domestic Violence Research." [↑](#footnote-ref-19)
20. Mary Helen Wimberly, “Defending Victims of Domestic Violence Who Kill Their Batterers”, 2007 [↑](#footnote-ref-20)
21. Laura Theresa Curcio Curry [2009 J.D. Candidate, University of Baltimore School of Law], “ON THE BORDER: THE COUNTRY'S AMBIGUOUS RESPONSE TO OUT-OF-STATE DOMESTIC VIOLENCE VICTIMS FLEEING THEIR ABUSERS,” 13 Holy Cross J.L. & Pub. Pol'y 9 (2009), p. 13-14 [↑](#footnote-ref-21)
22. Ibid. [↑](#footnote-ref-22)
23. Zipursky, Benjamin C (Associate Professor @ Fordham University School of Law; J.D., 1991, New York University; Ph.D., 1987, University of Pittsburgh; B.A., 1982, Swarthmore College). “SELF-DEFENSE AND RELATIONS OF DOMINATION: MORAL AND LEGAL PERSPECTIVES ON BATTERED WOMEN WHO KILL: SELF-DEFENSE, DOMINATION, AND THE SOCIAL CONTRACT.” Spring 1996. The University of Pittsburgh Law Review. LexisNexis. [↑](#footnote-ref-23)